



Stuart B. Wolfe (SBN 156471)  
*sbwolfe@wolfewyman.com*  
 Joshua M. Bryan (SBN 225230)  
*jmbryan@wolfewyman.com*  
**WOLFE & WYMAN LLP**  
 2175 N. California Blvd., Suite 645  
 Walnut Creek, CA 94596-3502  
 Telephone: (925) 280-0004  
 Facsimile: (925) 280-0005

Attorneys for Defendant  
**CITIMORTGAGE, INC.** (erroneously  
 named herein as "CITIFINANCIAL  
 MORTGAGE, INC.")

**UNITED STATES BANKRUPTCY COURT**  
**EASTERN DISTRICT OF CALIFORNIA**

In re:

GERALD WILLIAM FILICE,  
 Debtor.

Case No. 10-47748

Chapter 7

Adversary Proceeding No. 11-02245-D

GERALD W. FILICE,

Plaintiff,

v.

CITIFINANCIAL MORTGAGE, INC.,

Defendant.

Date: November 30, 2011  
 Time: 10:00 A.M.  
 Place: Courtroom 34, 6<sup>th</sup> Floor

**DEFENDANT CMI'S MOTION TO DISMISS PLAINTIFF'S ADVERSARY**  
**PROCEEDING COMPLAINT**

**TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

Defendant CitiMortgage, Inc. (erroneously named herein as "CITIFINANCIAL  
 MORTGAGE, INC.") ("CMI") hereby submits its Motion to Dismiss the entire Complaint  
 (Adversary Proceeding action No. 11-02245-D) ("Complaint") filed by Plaintiff/debtor Gerald W.

///

1 Filice ("Plaintiff") on April 15, 2011, and each cause of action asserted against it therein. CMI  
2 specifically requests that this Court dismiss the entire Complaint on the grounds that it fails to state  
3 any claim for which relief can be granted including but not limited to claims for declaratory and  
4 injunctive relief under Federal Rule of Civil Procedure Rule 12(b)(6).

5 This motion is based upon the notice of hearing and memorandum of points and authorities  
6 filed concurrently herewith, and on such other and further matter as may be presented to the Court  
7 at or before the time set for the hearing on this matter.

8 DATED: September 28, 2011

WOLFE & WYMAN LLP

9  
10 By: /s/ Joshua M. Bryan

11 STUART B. WOLFE  
12 JOSHUA M. BRYAN  
13 Attorneys for Defendant  
14 CITIMORTGAGE, INC.  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28